

**DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA**

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IN THE MATTER OF (1) The Request of )	
Governor Judy Martz that the Commission )	UTILITY DIVISION
Authorize a Reallocation of Approximately )	
\$1.725 Million of Unassigned Universal )	DOCKET NO. D2003.10.142
System Benefits Funds Collected by )	
NorthWestern Energy to Low-Income )	ORDER NO. 6514
Programs, and (2) NorthWestern Energy's )	
Application to Reallocate \$1,725,600 )	
Unassigned Universal System Benefits )	
Funds )	

**PROPOSED ORDER REALLOCATING UNASSIGNED UNIVERSAL SYSTEM  
BENEFITS FUNDS COLLECTED BY NORTHWESTERN ENERGY**

**Please Note: This order is a proposed order of the PSC. Persons directly affected by this order may have certain rights to request the PSC conduct additional procedures regarding this matter. Under the circumstances, including an expectation that it is unlikely that there will be an objection and the possible need for expedited action, this proposed order becomes the final order of the PSC 11 days from the service date above, without further action of the PSC, unless any person directly affected files an objection within 10 days of the service date above. Objections to this proposed order, if any, must be filed with the PSC, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, original and 10 copies. Objections, if any, must be clearly stated and supported by factual and legal argument.**

**FINDINGS**

1. In August, 2003 Governor Judy Martz issued Executive Order No. 15-03 establishing a Consumer Energy Protection Task Force (Task Force). The Task Force was charged, in part, with developing proposals for mitigating utility bill increases, especially for low-income customers.

2. The Task Force held its first meeting on August 27, 2003 to discuss low-income matters. In the course of explaining to the Task Force its Universal System Benefits (USB) programs budget for 2003, NorthWestern Energy (NWE) identified \$1,725,000 of

unassigned funds and indicated that these funds could be used to help address low-income bill impacts. One million dollars of the unassigned funds are the result of a large renewable project to which NWE had contractually committed in 2000 and 2001. The project was canceled in 2002. The rest of the unassigned funds represent dollars budgeted for local conservation, renewables and research and development in 2003, but have not yet been contractually committed to specific projects. The Task Force voted to recommend to the Governor that the \$1.725 million unassigned USB dollars should be allocated to low-income programs and that NWE should submit a specific recommendation on how those dollars should be spent.<sup>1</sup>

3. On September 2, 2003, the Commission received a letter from the Governor in which she asked that NWE make the \$1.725 million unassigned USB funds available for low-income needs. The Governor further asked that the Commission allow NWE the flexibility to reallocate these funds, if any Commission approval is necessary to do so.

4. On September 12, 2003 the Task Force discussed two alternative ways of allocating the \$1.725 million unassigned USB funds. NWE and its USB Advisory Committee agreed on September 9, 2003 that \$425,000 should be allocated to weatherization projects for low-income households, \$300,000 should go directly to Energy Share of Montana (Energy Share) and the remaining \$998,000 should be used to supplement NWE's low-income rate discounts. Any unspent industrial USB contributions would be allocated to Energy Share. Additionally, any of the \$425,000 weatherization allocation that was not spent by the end of February 2004 would go to Energy Share.

5. Alternatively, a low-income subcommittee of the Task Force voted to recommend to the full Task Force that \$100,000 should be allocated to weatherization projects, \$325,000 should go to Energy Share and approximately \$1.3 million should be used to supplement the low-income rate discounts. Unspent industrial contributions would be allocated according to past practice, which usually includes both weatherization and Energy Share.

6. The Task force voted to split the difference between the two alternative allocations. The resulting recommendation from the Task Force was to allocate \$262,500

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<sup>1</sup> Although PSC Chairman Bob Rowe is a member of the Task Force, he did not participate in the vote on this Task Force recommendation.

for weatherization projects, \$312,500 to Energy Share and the rest, approximately \$1,150,600, to supplement NWE's low-income rate discounts. The Task Force also recommended that unspent industrial contributions should be allocated according to past practice.

7. On September 26, 2003 the Commission received a letter from the Governor wherein she endorsed the Task Force recommendations and again asked the Commission to allow NWE flexibility to implement the allocation of unassigned USB funds, if any Commission approval is needed.

8. On October 1, 2003, NWE filed an application requesting approval to reallocate \$1,725,600 in unassigned electric USB funds consistent with the Governor's request. NWE proposed to establish supplemental rate discounts for its low-income natural gas and electric customers. NWE also proposed to direct the funds requested by the Governor to the Department of Public Health and Human Services, for weatherization projects, and Energy Share.

9. NWE proposed to implement the low-income bill assistance portion of the reallocation through supplemental low-income rate discounts for both electric and natural gas customers starting November 1 and ending when the funds have been exhausted. The existing natural gas and electric 15% low-income discount would continue throughout this period and after the supplemental discounts end.

10. NWE proposed supplemental low-income rate discounts for natural gas and electric customers of 21% and 10%, respectively. The supplemental rate discounts are designed to fully offset the net bill impacts on low-income customers from the natural gas and electric interim rate changes effective on July 1, 2003 in Docket No. D2003.6.66 (natural gas cost tracker case) and July 15, 2003 in Docket No. D2003.6.77 (electric default supply cost tracker case).

11. On October 6, 2003 the Commission received a letter from NWE's USB Advisory Committee. There is not consensus in the USB Advisory Committee in support of the Governor's request, which departs from the Committee's recommended allocation of the \$1.725 million unassigned USB funds among various low-income programs, which was discussed but rejected by a subcommittee of the Task Force and the full Task Force. However, all USB Advisory Committee members agreed not to object to a Commission Order adopting the Governor's request so as to trigger a contested case proceeding

“...provided that the 2003 expenditure of ‘unassigned funds’ is considered a one-time only event and not a precedent-setting allocation for future years...” and provided that the Commission’s order include four clarifications.

12. First, the Committee believes the Commission’s order should state that Energy Share may, consistent with its normal practice and Department of Revenue rules for qualifying USB expenditures, disperse some of the funds allocated to it for emergency energy assistance to people who are not eligible for the Low-Income Energy Assistance Program (LIEAP).

13. Second, the Committee wants the order to clarify that NWE will make work-in-progress payments to facilitate investment of the reallocated weatherization funds within the specified time frame for jobs that are in progress or completed. Once the reallocated weatherization dollars have been expended, or after February 2004, normal invoicing practices will occur.

14. Third, the order should state that any weatherization funds that remain unspent after the end of February 2004 must be provided to Energy Share with direction to use such funds only on emergency energy assistance for LIEAP-qualified customers of NWE.

15. Fourth, the Committee asked that the order require NWE to await recommendations from the Committee, to be provided at a November 18, 2003 meeting, regarding the use of any unspent industrial customer contributions before allocating or spending such funds.

#### COMMISSION DECISION

16. NWE’s natural gas and electric customers have experienced a series of significant rate increases in the past two years. Such rate increases can be especially harmful to low-income customers. The Commission supports the Governor’s request to allow NWE flexibility to reallocate approximately \$1.725 million in so called “unassigned” USB funds.

17. Substantial public discourse has occurred regarding the specific use of the approximately \$1.725 million within the Governor’s Task Force and NWE’s USB Advisory Committee, as discussed above. The Governor’s September 26, 2003 request established a reasonable approach to spending “unassigned” USB funds to address an

immediate low-income need for this program year. This is a one-time allocation that does not set precedent for future years.

18. NWE's October 1, 2003 application to reallocate USB funds is consistent with the Governor's September 26 request and reasonably supports the Company's proposed supplemental low-income rate discounts.

### CONCLUSIONS OF LAW

1. NWE furnishes electric and natural gas service for customers in the State of Montana and is a public utility under the regulatory jurisdiction of the Montana Public Service Commission. The Commission properly exercises jurisdiction over NWE's rates and operations. §§ 69-3-101 and 69-3-102, MCA.

2. The Commission exercises authority over public utilities and electric and natural gas utility industry restructuring pursuant to its authority under Title 69, Chapter 3 and Chapter 8, MCA.

3. Pursuant to Title 69, Chapter 3 and Chapter 8, MCA, the Commission has the duty to implement Universal System Benefits Charges. §§ 69-3-1408 and 69-8-402, MCA.

### ORDER

1. NWE is authorized to reallocate \$1,725,600 of "unassigned" USB funds. The specific reallocation approach NWE described in its October 1, 2003 application is approved. This authorization to reallocate USB funds applies only to the unique circumstances identified in this proceeding and does not represent a change in the Commission's policy regarding the proper approach to allocating USB funds among qualifying USB categories and specific uses within those categories. Order Nos. 5986g and 5986i, Docket No. D97.7.90, continue to reflect the Commission's policy on USB funds allocation.

2. For purposes of the one-time reallocation authorized in this Order, NWE is authorized to direct \$312,500 in USB funds to Energy Share of Montana. The Commission acknowledges that, consistent with normal practice and Department of Revenue rules for qualifying low-income expenditures, Energy Share may disperse some

of the funds allocated to it for emergency energy assistance to people who are not eligible for the Low-Income Energy Assistance Program (LIEAP).

3. NWE is authorized to make work-in-progress payments to facilitate the investment of \$262,500 in low-income weatherization projects before the end of February 2004. Once these reallocated weatherization funds are expended, or after February 2004, NWE must return to normal invoicing practices. Any of these reallocated weatherization funds that are not expended after the end of February 2004 must be directed to Energy Share with a specific requirement that those funds be used to assist LIEAP-qualified customers of NWE.

4. Before spending or committing to spend any Large Customer USB funds that otherwise will not be spent in 2003, NWE must receive recommendations from its USB Advisory Committee.

5. NWE must file tariffs implementing the approved supplemental electric and natural gas low-income customer discounts as described above in findings 9 and 10, designed to provide low-income customers approximately \$1,150,600 of additional bill reductions over five months beginning November 1, 2003. Commission staff is authorized to approve the compliance tariffs.

DONE AND DATED THIS 7<sup>th</sup> day of October by a 5 to 0 vote.